

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TOBIN DON LEMMONS,

Plaintiff,

v.

MICHAEL HOUSTON, JEFF TROUTT,  
JANET DOWLING, KATRYNA FRECH,  
GENESE MCCOY, SAMMIE KENYON,  
JAMES HOWARD, DR. SHRINER,  
JOSEPH SMASH, DOES, LEONIDES BERMEJO )  
CHERIAN KARUNAPUZHA, LORI IRWIN, )  
GREGG BROOKS, KENYA SACKETT, )  
FELICIA HARRIS, ROBERT PATTON, and )  
JUSTIN JONES, in his individual capacity, )

Defendants.

Case No. CIV-13-494-D

**ORDER**

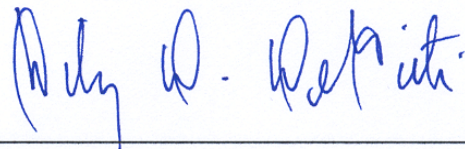
Before the Court is Plaintiff's Objection [Doc. No. 108] pursuant to which Plaintiff purports to Object to the Report and Recommendation [Doc. No. 101] filed by Magistrate Judge Shon T. Erwin on February 19, 2015. In the Report and Recommendation, the Magistrate Judge advised the parties that an objection was due on or before March 9, 2015. By subsequent Order [Doc. No. 102] the Court granted Plaintiff's request for an extension of time to object to two previously filed Reports and Recommendations [Doc. Nos. 94 and 95] and additionally *sua sponte* granted Plaintiff an extension of time within which to file objections to the February 19, 2015 Report and Recommendation. The Court directed that objections to all three Reports and Recommendations were due on or before March 16, 2015 and expressly advised that "[n]o further extensions of time shall be granted."

On March 2, 2015, Plaintiff timely filed an objection [Doc. No. 103] to the first two Reports and Recommendations. Thereafter, on March 27, 2015, Plaintiff filed an untimely objection [Doc.

No. 108] to the third Report and Recommendation. Plaintiff states – without declaration or notarized statement – that he placed the objection in the U.S. Mail on March 16, 2015. *See* Objection at p. 13. Contrary to Plaintiff’s statement, the envelope accompanying his filing is postmarked March 26, 2015. Therefore, the Court finds Plaintiff is not entitled to the benefit of the prison mailbox rule. *See Love v. Daniels*, 549 Fed. App’x 801, 804 (10th Cir. 2013) (“prison mailbox rule is satisfied if document is postmarked by deadline making it ‘clear’ that the defendant deposited the document in the prison mail system before the deadline”) (*citing Sorenson v. Tidwell*, 114 Fed. App’x 266, 267 (8th Cir. 2004)). Moreover, Plaintiff has not sought leave of Court to file the untimely objection and, as set forth, the Court has previously advised Plaintiff that no further extensions would be granted.

IT IS THEREFORE ORDERED that Plaintiff’s Objection [Doc. No. 108] is STRICKEN as untimely filed.

IT IS SO ORDERED this 31<sup>st</sup> day of March, 2015.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE